IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

CRL.A.No. 64 of 2002()

CC.686/1990 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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APPELLANT: COMPLAINANT

N.K.RAMAKRISHNAN S/O.NANU KURUP,
AGED 57 YEARS,"DEVI NIVAS",P.O.CHIRAKKARA,
THALASSERY-4,KANNUR DISTRICT

BY ADV. SRI.R.SURENDRAN

RESPONDENTS: ACCUSED & STATE

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1. M.C.THOMAS,ALIAS M.D.THOMAS,
CORRESPONDENT ST PETER'S TEACHER TRAINING
INSTITUTE,P.O.VILLAKURI,NAGARKOVIL,KANYAKUMARI
DISTRICT,TAMIL NADU.

2. STATE OF KERALA,REPRESENTED BY
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.64 of 2002

Dated this the 25th day of July, 2007

JUDGMENT

The appellant is the complainant who had initiated proceedings under Section 138 of the Negotiable Instruments Act. The accused stands acquitted under Section 256(1) of Crl.P.C. as the complainant was absent.

2. It is submitted that the lapse was on account of the wrong noting of the posting date. In the circumstances, the order of the court below is set aside. The court below is directed to permit the appellant to further proceed with the matter and dispose of the case on merits. The court below shall issue fresh summons to the accused. The appellant shall appear before the court below on 16.8.2007.

The appeal is allowed.

K.R.UDAYABHANU,
JUDGE

csl